

AUG/26/2015/WED 08:54 AM The Green Law Firm

FAX No. 956 542 7026

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 2015-CCL-00502
 8/5/2015 2:19:21 PM
 Sylvia Garza-Perez
 Cameron County Clerk

Cause No. 2015-CCL-502

Paola Zapata, ind. & a/n/f of	§	In the County Court
XXXXXXX XXXXX and Osvaldo Rivas	§	
<i>Plaintiffs,</i>	§	
	§	
vs.	§	at Law Number 3
	§	
Autotransportes Romedu S.A.	§	
<i>Defendant</i>	§	Cameron County, Texas

Plaintiffs' First Amended Petition and First Set of Discovery Requests to Defendant

To The Honorable Judge of This Court:

Comes Now Plaintiffs Paola Zapata, individually and as next friend of XXXXXXXX XXXXX, and Osvaldo Rivas, complaining of and about Defendant, Autotransportes Romedu S.A., and for causes of action files this First Amended Petition and First Set of Discovery Requests to Defendant. In support, Plaintiffs would respectfully show this Honorable Court the following:

A. Discovery Control Plan

1.1 Plaintiffs intend to conduct discovery under Level 1 of Texas Rule of Civil Procedure 190, as provided under Rule 169's provision for expedited trials.

B. Parties and Service

2.1 Plaintiffs are individuals who resides in Brownsville, Texas.

2.2 Defendant Autotransportes Romedu S.A. is a Mexican trucking company operating and doing business in Texas. Defendant has agreed to accept service by serving a copy of this Petition upon its Attorney, Ms. Tamara Rodriguez, of Vidaaurri, Lyde,

Rodriguez, & Haynes, LLP.

C. Jurisdiction and Venue

3.1 This Court has subject matter jurisdiction over this action because Plaintiff seeks unliquidated damages in an amount within this Court's jurisdictional limits.

3.2 Venue is proper in Cameron County, Texas, under Texas Civil Practice and Remedies Code §15.002(a)(1) because all or a substantial part of the events or omissions giving rise to Plaintiff's cause of action occurred in Brownsville, Cameron County, Texas.

D. Facts

4.1 On or about March 9, 2014, Minor Plaintiff and Plaintiffs suffered personal injuries and other damages when the vehicle in which they were riding was struck by a piece of metal debris that was unsecured and fell from a truck owned and operated by Defendant Autotransportes Romedu S.A., while delivering a load to Inteva Products in Brownsville.

E. Causes of Action

Count One - Negligence

5.1 At the time of the collision, Defendant Autotransportes Romedu S.A.'s employee was operating his or her vehicle negligently. Defendant's employee had a duty to exercise ordinary care and operate their vehicle reasonably and prudently. Defendant's employee breached that duty in one or more of the following ways:

- a. Failing to properly secure their cargo load;
- b. Driving too fast under the conditions;
- c. Failing to stop and render aid;

- d. Failing to drive at a speed appropriate given the cargo; and/or
- e. Failing to pay attention to their surroundings.

Defendant's negligence proximately caused Plaintiffs' injuries and other damages.

F. Damages

6.1 Plaintiffs seek unliquidated damages in an aggregate amount not to exceed \$75,000 (one hundred thousand dollars), including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys' fees.

G. Conditions Precedent

7.1 All conditions precedent have been performed or have otherwise occurred.

H. Request for Disclosure

8.1 Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose the information or material described in Rule 194.2(a) through (l) within fifty (50) days of the service of this First Amended Petition.

I. Discovery Requests

9.1 Pursuant to the Texas Rules of Civil Procedure, Plaintiffs request that Defendant serve responses to the attached First Set of Interrogatories & Requests for Production within fifty (50) days of the service of this First Amended Petition.

J. Notice of Intent to Rely on Documents Produced

10.1 Under Texas Rule of Civil Procedure 193.7, Plaintiffs hereby give Defendant notice that any documents, materials or tangible items produced by Defendant in the course of discovery of this cause may be used against Defendant at trial, and such, as produced by Defendant, is self-authenticated.

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Prayer

Wherefore, premises considered, Plaintiffs respectfully prays that Defendant be cited to appear and answer this suit, and that Plaintiffs ultimately have judgment against Defendant for the following:

- a. Physical pain in the past and future;
- b. Mental anguish in the past and future;
- c. Physical impairment in the past and future;
- d. Medical expenses in the past and future;
- e. Lost wages;
- f. Lost earning capacity in the past and future;
- g. Property damage;
- h. Costs of suit;
- i. Pre-judgment and post-judgment interest; and
- j. All other relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,
THE GREEN LAW FIRM, P.C.

By: /s/ Michael L. Orth
MICHAEL L. ORTH
State Bar No. 24079089
JORGE A. GREEN
State Bar No. 24038023
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Facsimile : (956) 542-7026
ATTORNEYS FOR PLAINTIFFS

Plaintiff's First Set of Discovery Requests

Plaintiff's First Set of Interrogatories to Defendant

A. Instructions

For any requested information about a document that no longer exists or cannot be located, identify the document, state how and when it passed out of existence or when it could no longer be located, and give the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss, and identify each document evidencing the existence or nonexistence of each document that cannot be located.

B. Definitions

The following definitions have the following meanings, unless the context requires otherwise:

1. "Plaintiff" or "Defendant" as well as a party's full or abbreviated name or a pronoun referring to a party, means the party, and when applicable, the party's agents, representatives, officers, directors, employees, partners, corporate agents, subsidiaries, affiliates, or any other person acting in concert with the party or under the party's control, whether directly or indirectly, including any attorney.
2. "You" or "your" means Defendant, its successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, and all other persons acting on behalf of Defendant or its successors, predecessors, divisions and subsidiaries.
3. "Document" means all written, typed or printed matter and all magnetic, electronic or other records or documentation of any kind or description in your actual possession, custody, control, including those in possession, custody or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys or other agents, whether or not prepared by you, that constitute or contain matters relevant to the subject matter of the action. "Document" includes, but is not limited to, the following: letters, reports, charts, diagrams, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations or conferences, interoffice communications, e-mail, microfilm, bulletins, circulars,

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pamphlets, photographs, faxes, invoices, tape recordings, computer printouts, drafts, resumes, logs, worksheets, etc.

4. "Electronic or magnetic data" means electronic information that is stored in a medium from which it can be retrieved and examined. The term refers to the original (or identical duplicate when the original is not available) and any other copies of the data that may have attached comments, notes, marks or highlighting of any kind. Electronic or magnetic data includes, but is not limited to, the following: computer programs, operating systems, computer activity logs, programming notes or instructions, email receipts, messages, or transmissions, output resulting from the use of any software program, including word-processing documents, spreadsheets, database files, charts, graphs, and outlines, metadata, PIF and PDF files, batch files, deleted files, temporary files, internet or web-browser generated information stored in textual, graphic or audio format, including history files, cookies or caches, and any miscellaneous files or file fragments. Electronic or magnetic data includes any items stored on magnetic, optical, digital, or other electronic-storage media, such as hard drives, floppy disks, CD-ROMS, DVDS, tapes, smart cards, USB storage devices, removable media. Electronic or magnetic data also includes the file, folder, tabs, container and labels attached to or associated with any physical storage device with each original or copy.
5. "Possession, custody or control" of an item means that the person either has physical possession of the item or has a right to possession equal or superior to that of the person who has physical possession of the item.
6. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business or legal entity and all predecessors or successors in interest.
7. "Mobile device" means any cellular telephone, satellite telephone, pager, personal digital assistant, handheld computer, electronic rolodex, walkie-talkie or any combination of these devices.
8. "Identify" or "describe" when referring to a person, means you must state the following:
 - A. The full name.
 - B. The present or last known residential address and residential telephone number.
 - C. The present and last known office address and office telephone number.

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- D. The occupation, job title, employer and employer's address at the time of the event or period referred to in each particular interrogatory.
 - E. In the case of any entity, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory and the officer who is responsible for supervising that officer or employee.
9. "Identify" or "describe" when referring to a document, means you must state the following:
- A. The nature of the document—e.g., letter, handwritten note, typed
 - B. The title or heading that appears on the document.
 - C. The date of the document and the date of each addendum, supplement or other addition or change.
 - D. The identities of the author, signer of the document, and person on whose behalf or at whose request or direction the document was prepared or delivered.
 - E. The present location of the document and the name, address, position or title and telephone number of the person or persons having custody of the document.

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C. Standard Interrogatories

Interrogatory #1:

Please briefly describe the purpose of the trip that is the subject of this lawsuit, including (1) where it began, (2) what was being hauled, and (3) if Inteva Products was the tractor-trailer's final destination.

Answer:

Interrogatory #2:

Please briefly describe Romedu's policies and procedures in place regarding properly securing a cargo load.

Answer:

Interrogatory #3:

Please state the name, position with Romedu Express, and length of employment of the driver, who was driving the truck with a Mexican License Plate # 644-SR-7, which delivered a load to Inteva Products on Sunday, March 9, 2014.

Answer:

Interrogatory #4:

If any special policies are in place regarding the materials or type of cargo being hauled on the truck that forms the basis of this lawsuit, please briefly state those policies.

Answer:

Interrogatory #5:

What type of tractor-trailer (make, model and year) was being driven in the incident that forms the basis of this lawsuit?

Answer:

Plaintiff's First Set of Requests for Production to Defendant

A. Instructions

1. Answer each request for documents separately by listing the documents and by describing them as defined below. If documents produced in response to this request are numbered for production, in each response provide both the information that identifies the document and the document number.
2. For a document that no longer exists or that cannot be located, identify the document, state how and when it passed out of existence or could no longer be located, and the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss, and identify each document evidencing the existence or nonexistence of each document that cannot be located.

B. Definitions

The following definitions have the following meanings, unless the context requires otherwise:

1. "Plaintiff" or "Defendant" as well as a party's full or abbreviated name or a pronoun referring to a party, means the party, and when applicable, the party's agents, representatives, officers, directors, employees, partners, corporate agents, subsidiaries, affiliates, or any other person acting in concert with the party or under the party's control, whether directly or indirectly, including any attorney.
2. "You" or "your" means Defendant, its successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, and all other persons acting on behalf of Defendant or its successors, predecessors, divisions and subsidiaries.
3. "Document" means all written, typed or printed matter and all magnetic, electronic or other records or documentation of any kind or description in your actual possession, custody, control, including those in possession, custody or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys or other agents, whether or not prepared by you, that constitute or contain matters relevant to the subject matter of the action. "Document" includes, but is not limited to, the following: letters, reports, charts, diagrams, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations or conferences, interoffice communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, faxes, invoices, tape recordings, computer printouts, drafts, resumes, logs, worksheets, etc.

4. "Electronic or magnetic data" means electronic information that is stored in a medium from which it can be retrieved and examined. The term refers to the original (or identical duplicate when the original is not available) and any other copies of the data that may have attached comments, notes, marks or highlighting of any kind. Electronic or magnetic data includes, but is not limited to, the following: computer programs, operating systems, computer activity logs, programming notes or instructions, email receipts, messages, or transmissions, output resulting from the use of any software program, including word-processing documents, spreadsheets, database files, charts, graphs, and outlines, metadata, PIF and PDF files, batch files, deleted files, temporary files, internet or web-browser generated information stored in textual, graphic or audio format, including history files, cookies or caches, and any miscellaneous files or file fragments. Electronic or magnetic data includes any items stored on magnetic, optical, digital, or other electronic-storage media, such as hard drives, floppy disks, CD-ROMS, DVDs, tapes, smart cards, USB storage devices, removable media. Electronic or magnetic data also includes the file, folder, tabs, container and labels attached to or associated with any physical storage device with each original or copy.
5. "Possession, custody or control" of an item means that the person either has physical possession of the item or has a right to possession equal or superior to that of the person who has physical possession of the item.
6. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business or legal entity and all predecessors or successors in interest.
7. "Mobile device" means any cellular telephone, satellite telephone, pager, personal digital assistant, handheld computer, electronic rolodex, walkie-talkie or any combination of these devices.
8. "Identify" or "describe" when referring to a person, means you must state the following:
 - A. The full name.
 - B. The present or last known residential address and residential telephone number.
 - C. The present and last known office address and office telephone number.
 - D. The occupation, job title, employer and employer's address at the time

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of the event or period referred to in each particular interrogatory.

E. In the case of any entity, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory and the officer who is responsible for supervising that officer or employee.

9. "Identify" or "describe" when referring to a document, means you must state the following:

A. The nature of the document—e.g., letter, handwritten note, typed

B. The title or heading that appears on the document.

C. The date of the document and the date of each addendum, supplement or other addition or change.

D. The identities of the author, signer of the document, and person on whose behalf or at whose request or direction the document was prepared or delivered.

E. The present location of the document and the name, address, position or title and telephone number of the person or persons having custody of the document.

C. Requests for Production

Request #1:

All photographs by Defendant or Defendant's agent that relate to Plaintiff's cause of action, including photographs of Plaintiff, any of the vehicles involved in the collision, and/or the scene of the collision.

Response:

Request #2:

A copy of the driver's license of the employee or tractor-trailer driver who was driving the tractor-trailer involved in the incident that forms the basis of this lawsuit.

Response:

Request #3:

All training materials Autotransportes Romeu S.A. provides to its employees regarding how to properly secure a load.

Response:

Request #4:

A copy of the bill of lading for the load that was being delivered to Inteva Products in the tractor-trailer that was involved in the incident that forms the basis of this lawsuit.

Response:

Request #5:

If and/or when an expert is retained by Defendant, please produce a copy of the expert's file, including: (1) all correspondence, including fee arrangements, between the expert and Defendant and/or Defendant's agents, including Defendant's attorney, (2) all materials and documents reviewed by the expert in preparing his or her report, (3) any slide-show, power point presentation, or other demonstrative evidence the expert will use at trial, and (4) a list of all the cases in which the expert has testified in the last 4 years.

Response:

Request #6:

Please provide a copy of any and all statutes, regulations, ordinances, or written rules or customs that Defendant intends to introduce at trial.

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Response:

Request #7:

Please provide copies of any and all communications between Defendant's attorney and Defendant's insurance carrier.

Response:

Request #8:

Any and all incident report(s) filled out regarding the incident that forms the basis of this collision.

Response:

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VERIFICATION

THE STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, a notary public, on this day personally appeared _____, an authorized agent for Autotransportes Romedu S.A., who being by me duly sworn on her oath, deposed and said that she is duly qualified and authorized in all respects to make this Affidavit; that she has read the above and foregoing answers to interrogatories; and every statement contained in the answers is within her knowledge, and is true and correct.

Signature - Authorized Agent for
Autotransportes Romedu S.A.

Printed Name - Authorized Agent for
Autotransportes Romedu S.A.

Autotransportes Romedu S.A.

SUBSCRIBED AND SWORN TO BEFORE ME by _____, on this
the _____ day of _____, 2015, to certify which witness my hand and
official seal.

Notary Public, State of Texas

Printed/typed name of Notary

My Commission Expires:
